IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Bail Appl..No. 4417 of 2007()

CRIME NO. 9/07 OF KAREELAKULANGARA POLICE STATION
CMP.1079/2007 of J.M.F.C.-II, HARIPAD

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PETITIONER/ACCUSED

VINODKUMAR, S/O BHASKARAN,
SREEPADAM, KANICHANELLOOR MURI,
CHEPPAD VILLAGE.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. AJI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4417 of 2007

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Dated this the 25th day of July, 2007

O R D E R

Application for regular bail. Petitioner is the 8th accused. He faces allegations under the Kerala Abkari Act. The crux of the allegations is that on the night of 9.1.2007, some persons were found moving around suspiciously near a service station. On seeing the police party, they allegedly ran for helter-skelter. The police tried to apprehend the miscreants. Two of them were caught. F.I. statement was registered after interrogating the persons who were apprehended. Seven accused persons were named in the F.I.R. It was alleged that there were four more of such miscreants, who were involved in the crime. Investigation proceeded. After arrest of one of the accused (A5) and interrogation of the said 5th accused, the contumacious role of the petitioner was revealed. That statement was confirmed by the admitted availability of a vehicle/two wheeler of the petitioner at the scene of the crime. The petitioner was arrested on 29.6.07. Investigation is in progress. The petitioner continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He has been falsely implicated solely because he has a dispute regarding property/ornaments with a lady neighbour of his. Since that was only a civil dispute, with vexatious intent the petitioner has been arrayed as an accused in this crime. In any view of the matter, one month has expired by now. The petitioner may now be enlarged on bail, prays the learned counsel.

3. The learned Prosecutor opposes the application. In the wake of the opposition by the Public Prosecutor bail can be granted to the petitioner only if this court is in a position to entertain both the satisfactions contemplated under Section 41A of the Kerala Abkari Act. In the facts and circumstances of this case, I am unable to entertain either of those satisfactions. The fact that the petitioner is not named in the F.I.R. cannot persuade the court to concede any such crucial advantage to the petitioner as the F.I. statement itself shows that seven persons named in the F.I.R. are not exhaustive and there were about four others also involved in the crime. The presence of the vehicle of the petitioner at the scene of the crime is another telltale circumstance against the petitioner. I am in these circumstances satisfied that consistent with the mandate of Section 41A of

the Kerala Abkari Act, the petitioner is not entitled to be released on bail at this stage. The investigation is not complete. All the co-accused have not been arrested so far. The investigator must be given reasonable further time to complete the investigation. The prayer for bail must in these circumstances fail.

4. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the courts for bail again at a later stage of the investigation, not at any rate, prior to 8.8.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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